

Exhibit D

KLARIS

March 14, 2023

BY EMAIL

Lynne E. Graybeal
Perkins Coie
1201 Third Avenue
Suite 4900
Seattle, Washington
lgraybeal@perkinscoie.com

Re: Infringement of Copyright in the Works of J.R.R. Tolkien

Dear Ms. Graybeal:

We are legal counsel to The Tolkien Estate Limited and The Tolkien Trust, which are the heirs and successors-in-heirs of the late Professor J.R.R. Tolkien, author of the internationally renowned trilogy *The Lord of the Rings* (the “Work”), as well as many other creative works of art and literature. It has come to our attention that your client Demetrius Polychron, through his company Fractal Books, is offering for sale an unauthorized derivative sequel of the Work, authored by Mr. Polychron. This unauthorized sequel is entitled *The Fellowship of the King* (the “Infringing Book”) in direct reference to the title of the first book in Professor Tolkien’s trilogy, *The Fellowship of the Ring*, and we understand Mr. Polychron intends to publish more such infringing works, the second entitled *The Two Trees* in direct reference to the second book in the trilogy, *The Two Towers*.

We are also aware that you approached our clients on behalf of Mr. Polychron in 2019 seeking a copyright and trademark license in order to publish and distribute the Infringing Book, and this license was denied in light of our clients’ longstanding policy of not licensing other writers to create sequels or extensions of Professor Tolkien’s works. In light of this exchange in 2019, it is clear that (a) Mr. Polychron acknowledged that the Infringing Book is a derivative work and would require permission from our clients to be authored, distributed or otherwise exploited; and (b) notwithstanding our clients’ denial of his request for a license, he has proceeded to willfully infringe their rights by moving forward with sales of the Infringing Book. If you no longer represent Mr. Polychron, we ask that you forward this letter to him and confirm immediately by return email that you no longer represent him so that we can contact him directly.

Otherwise, we hereby demand that your client immediately cease and desist from the reproduction, publication, advertisement, distribution, or other dissemination of *The Fellowship of the King* on grounds that it infringes the copyrights in the Work and potentially other of Professor Tolkien’s works, including but not limited to infringement of characters, plot, and other elements, as further set forth below.

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Klaris Law PLLC
29 Little West 12th Street
New York, NY 10014

Lance.Koonce@KlarisLaw.com
Mobile: +1 917.612.5861

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It is difficult to overstate the cultural impact of J.R.R. Tolkien's body of work. In particular, *The Lord of the Rings* series is widely regarded as the greatest fantasy trilogy ever written, and was essentially responsible for the creation of a new genre of popular literature. Just as one measure of its importance, as recently as 2019 a panel of writers, critics and curators sponsored by the BBC News chose *The Lord of the Rings* as one of the 100 greatest books of all time. Similar polls have found the trilogy to be among the most popular and influential novels in the English language.

Our clients hold valid and subsisting copyright interests in, and U.S copyright registrations for, all of the fictional works of J.R.R. Tolkien including *The Hobbit* (Reg. No. TX 4-374-803); the three volumes comprising *The Lord of the Rings*, i.e. *The Fellowship of the Ring* (Reg. Nos. Ai 4273 and RE 121-069), *The Two Towers* (Reg. Nos. Ai 4465 and RE 121-070) and *The Return of the King* (Reg. No. TX 4-281-409); and *The Silmarillion* (Reg. Nos. AF 46501 and RE 961-370).

Seeking to capitalize on the success of Professor Tolkien's works, Mr. Polychron has written, and is distributing for his own profit, a derivative sequel that purports to pick up after the events of *The Lord of the Rings* and makes use of a wide range of copyrighted elements from that Work. Although we have only been able to review a preview of the Infringing book, some (but by no means all) of those infringing elements include:

- Unauthorized quotations from *The Lord of the Rings*;
- Reiterating the fictional events at the end of the *The Fellowship of the Ring*;
- Inclusion of characters from *The Lord of the Rings*, such as Samwise and Rosie, Goldberry and Tom Bombadil, Aragorn and Arwen, Legolas and Gimli, and others;
- Inclusion of characters that are barely-disguised versions of Professor Tolkien's characters, such as the wizard Alatar for Gandalf;
- Use of settings from *The Lord of the Rings*, such as Hobbiton and Bag End;
- Recycling of plot elements from *The Lord of the Rings*, such as a coming-of-age event at Bag End interrupted by news of a powerful ring.

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Based on our review of the preview, there is no question that Mr. Polychron's book constitutes an unauthorized, and blatantly infringing, sequel.¹

Our clients hold the exclusive right to create, or authorize others to create, derivative works based on the Work. They have not authorized your client to create the Infringing Book, which he has admitted is a sequel and which is explicitly based on and derived directly from the Work by placing Tolkien's copyrighted characters and other protected elements into the fictional world Tolkien created. Further, he has now invoked the Work in the titles and marketing this unlawful derivative as a sequel, for the purposes of capitalizing – for a sale price of \$17.99 to \$26.99 per copy – on our clients' existing intellectual property with a built-in fanbase.

It is a blatant violation of United States federal law to use another person's copyrighted material in this manner without permission. *See* 17 U.S. Code §§ 101 and 106. Every day that Mr. Polychron continues to offer the Infringing Book for sale, he continues to be in willful violation of these laws. Under the Copyright Act, our clients are entitled to their actual damages, including disgorgement of profits, or statutory damages of up to \$150,000 for willful infringement. As I am sure you are aware, parties that prevail in enforcing their interests under the Copyright Act also may be awarded their costs, including attorneys fees. *See* 17 U.S. Code § 505. If our clients were to pursue formal legal action, we would ask a court to find that Mr. Polychron must pay a monetary penalty that is commensurate with his actions. Given the deliberate infringement here, we believe it highly likely that a court would find Mr. Polychron must pay our clients a substantial sum of money.

If your client wishes to avoid legal proceedings, our clients' immediate requirements are as follows:

1. That he immediately removes the Infringing Book (including any unpublished additional works in his series) from his website www.FractalBooks.com and any other website, mobile site or application that he owns or controls;
2. That he immediately causes the Infringing Book (including any unpublished additional works in his series) to be removed from any other location where it may appear for sale or dissemination, including but not limited to any third-party retail platforms such as Amazon.com (including the Kindle Store) and all national Amazon websites, Google Play, Scribd and Barnes & Noble;
3. That he permanently deletes and/or destroys all copies of the Infringing Book (including any unpublished additional works in his series);

¹ We would also note that Mr. Polychron appears to be blatantly infringing the works of others as well, including that of illustrator John Howe.

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4. That he immediately files an express abandonment of his copyright registration No. TXu002076068 for the Infringing Book;
5. That he immediately removes any and all materials promoting or advertising the Infringing Book (including any unpublished additional works in his series) from his website and anywhere else they may appear, and destroy all copies thereof;
6. That he identifies each and every sale of the Infringing Book that he has ever made on any platform or in any form. (Please note that our clients reserve the right to audit the information so provided.);
7. That he agrees to pay our clients damages resulting from his infringement of their intellectual property rights in a sum to be determined;
8. That he agrees to compensate our clients for their attorneys' fees incurred in relation to this matter (which will continue to accrue until this matter is concluded); and
9. That he undertakes to not at any time in the future infringe our clients' copyright interests in the manner described above or otherwise.

It is imperative that you and your client immediately take steps to acknowledge receipt of our letter and to comply with our demands. **If we do not receive a written response within five (5) business days of the date of this letter acknowledging that you have received our communication and that Mr. Polychron will immediately take steps to comply with our clients' demands, then formal legal action is liable to be taken on behalf of our clients without further notice.**

The statement of facts set forth in this letter is not intended to be, nor shall it be deemed to be, a full and complete statement of the facts in this matter. This letter is not intended to be a complete statement of our clients' rights and shall not be construed as a waiver of any legal or equitable rights or remedies, all of which are expressly reserved.

Sincerely,



Lance Koonce

cc: Maier Blackburn LLP